

In the United States District Court of Delaware

James Arthur Biggins,
Plaintiff,vs.
Gov. Ruth Ann Minner, et al.,
Defendants.

C.A. No. 1-08-cv-4 GMS



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To the Honorable Gregory M. Sleet
U.S. District Court Judges Chambers
U.S. District Court House, Lockbox 19
844 North King Street
Wilmington, Delaware 19801

Dated: March 28, 2008

Re: Immediate Temporary Restraining Order

Your Honor.

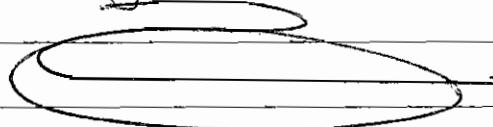
In pursuit of my T.R.O., I would like to inform you of recent events regarding Corrections Medical Services (CMS) and Delaware Dept of Corrections / Delaware Corrections Center (DOC/DCC) continual willful neglect to medical treatment that has (a) been diagnosed by a physician as mandating treatment for several chronic conditions. In addition to having been declared unacceptable forms of treatment for treating plaintiff's chronic conditions by Delaware Bureau of Prison Chief Richard Kersseny designated with making all final medical decisions of (DOC) inmates Hill v. DeKalb Reg'l Youth Det Ctr, 90 F.3d 1176, 1187 (11th Cir. 1994); Monmouth Cnty Corrections Institutional Inmates v. Lancaro, 834 F.2d 326, 347 (3d Cir. 1987), cert. denied, 486 U.S. 1006 (1988); Atkinson v. Taylor, 316 F.3d 257, 272-73 (3d Cir. 2003); and Spears v. Billis, 372 F.3d 218, 222 (3d Cir. 2004).

Although defendants have alleged that the plaintiff has been scheduled for a M.R. 1. to assist in the re-evaluation of his back conditions and receive renewed therapy. However, more than six (6) weeks later, the defendants determination has not changed to provide plaintiff the necessary treatment to treat his serious medical needs, subjecting him to continual needless pain and suffering resulting from their denial of performing simple medical care, which does not serve any penological purpose, violates the plaintiff's Eighth Amendment. Atkinson, 316 F.3d at 266; Monmouth County Inmates, 834 F.2d at 346. Likewise, plaintiff has continued to submit numerous repeated grievances and sick-calls for missed/renewed meds for chronic conditions and to be seen if necessary to be taken off a known harmful drug to his system, for an effective muscle relaxer to interact with the prescribed Mylonel #3. See exhibit A.

Note for the record that this is only the latest submitted sick-call, and only to have gotten a response since March 5, 2008. In furtherance, the medical employee responding for (CMS) confirms that (a), Dr. DeJesus did not order Multi-Vitamin ordinarily given to treat my chronic and serious medical condition that can cause a severe decrease in health "Sickle Cell Trait", (b) did not order (TM) a sinus tablet given to treat chronic sinus problems, and (c) are going to stop the distribution of ~~Antacids~~ ^{Antacids} because of its effects to my system causing continual irregular bowel movements and bloody stools. However, as of today the medication is still being dispensed (March 27, 2008). And have not prescribed for me a substitute med to replace it. See, as it continues to stand nothing is being done for me and in effect, I am decreasing health wise and faced daily with needless pain. This is neither an attempt to get medical treatment of my choice, I d. Speull. But this defendant's continual deliberate indifference by "intentionally denying and delaying medical care poses substantial risks of serious harm". Taylor v. Adams, 221 F.3d 1254, 1258 (11th Cir. 2000); Estelle, 429 U.S. at 104-105; Peters, 111 F.3d 1364 (7th Cir. 1997). It bears referencing that the defendants are "the moving forces" behind the harm being suffered by the plaintiff. Sample v. Diecks, 885 F.2d 1099, 1117-1118 (3d Cir. 1989); Heggenmiller v. Edna Mahan Care Inst. For Women, No. 84-1986, 128 Fed. Appx. 240 (3d Cir. 2005). The defendants also are denying or delaying access to a physician capable of evaluating the needs of my treatment. Durmer, 991 F.2d 64 (3d Cir. 1993); White, 897 F.2d 103 (3d Cir. 1990); Rouse, 182 F.3d 1, 197.

Wherefore, pursuant to Fed.R.Civ.P. Rule 65(b) the plaintiff request immediate injunctive relief under "imminent danger" and "irreparable harm". The plaintiff also will like to bring to this court's attention, that due to the knowledge of (DCC) now officials, MHU executive administrative officer STP/LT Alisa Prosci demonstrated to the plaintiff, her knowledge that she knows that she has been named in both actions by the plaintiff in this court by personally carrying on an unwarranted cell search and threaten to take plaintiff's legal material. See attached copy of letter to Attorney General Biden, exhibit B.

James Arthur Boggiano



Urgent*

DELWARE DEPARTMENT OF CORRECTIONS
REQUEST FOR MEDICAL/DENTAL SICK CALL SERVICES
FACILITY: DELAWARE CORRECTIONAL CENTER
 This request is for (circle one): **MEDICAL** **DENTAL** **MENTAL** **HEAI** **TH**

James Arthur Biggins

Name (Print)

May 11, 1964

Date of Birth

MHIS #22/A-U-4

Housing Location

March 17, 2008

319264

SBI Number

Date Submitted

Complaint (What type of problem are you having)? I've submitted several individual medical grievances regarding not receiving the following meds and was told to inform Medical. So, here's my 2nd Notice to you-all. On 3/11/08, I was seen by Dr. Desrosier and was reviewed for all meds. But I'm not getting my Multi-Vitamins or CTMs. Also I've repeatedly made known my concerns regarding being given Parafon Forte which makes me sick. I need to see a Doctor!

James Arthur Biggins

Inmate Signature

March 17, 2008

Date

The below area is for medical use only. Please do not write any further.

S: Your multi-vitamin & CTM's were not renewed when you seen the MD on 3-3-08. Also your Parafon Forte will be discontinued, since it makes

O: Temp: _____ Pulse: _____ Resp: _____ B/P: _____ WT: _____ You Det 12 - 8m/PR
3-19-08

(Copy to)

A:

P:

E:

Provider Signature & Title

Date & Time

3/1/99 DE01

FORM#:

MED

263

Received 3-19-08; 0900 J. McKenney RN

Ex. A

Certificate of Service

I, James Arthur Biggins, hereby certify that I have served a true and correct cop(ies) of the attached: Letter of Request for Temporary Restraining Order and Exhibits upon the following parties/person (s):

TO: Aphelia Michelle Waters, Esquire
Delaware Department of Justice
Civil State Office Building, 3d Floor
820 North French Street
Wilmington, Delaware 19801

TO: James E. Davis, Esquire
Balick and Balick, LLC
711 King Street
Wilmington
Delaware 19801

TO: _____

TO: _____

BY PLACING SAME IN A SEALED ENVELOPE and depositing same in the United States Mail at the Delaware Correctional Center, 1181 Paddock Road, Smyrna, DE 19977.

On this 21 day of March, 2008

James Arthur Biggins

I/M JAMES Arthur Boggins #29961 UNIT 1A-11-1
SBI# 31904

DELAWARE CORRECTIONAL CENTER
1181 PADDOCK ROAD
SMYRNA, DELAWARE 19977



cc: Clerk of the Court
US District Court House, Box 19
899 North King Street
WILMINGTON, DELAWARE
19881